REMARKS/ARGUMENTS

Reconsideration of the application is requested.

Claims 1, 3-6 and 9-18 are now in the application and are subject to examination. Claim 1, 11 and 16 have been amended. No claims have been added. Claims 7 and 8 have been canceled.

In "Claim Rejections - 35 USC § 103", item 3 on pages 2-3 of the above-identified Office Action, claims 1, 5, 7, 10 11-13 and 16-18 have been rejected as being obvious over U.S. Patent No. 5,937,585 to Tidbury et al. (hereinafter Tidbury) in view of U.S. Patent No. 1,477,271 to Soss and in further view of U.S. Patent No. 4,997,221 to Tölle et al. (hereinafter Tölle) under 35 U.S.C. § 103(a).

In "Claim Rejections - 35 USC § 103", item 4 on page 4 of the Office Action, claims 3-4 have been rejected as being obvious over Tidbury in view of Soss and Tölle and in further view of U.S. Patent No. 3,358,318 to Ingham and U.S. Patent No. 4,198,833 to Fleischauer et al. (hereinafter Fleischauer) under 35 U.S.C. § 103(a).

In "Claim Rejections - 35 USC § 103", item 5 on pages 4-5 of the Office Action, claim 9 has been rejected as being obvious

over Tidbury in view of Soss and Tölle and in further view of U.S. Patent No. 4,086,681 to Nakanishi under 35 U.S.C. § 103(a).

In "Claim Rejections - 35 USC § 103", item 6 on page 5 of the Office Action, claims 14-15 have been rejected as being obvious over Tidbury in view of Soss and Tölle under 35 U.S.C. § 103(a).

In "Claim Rejections - 35 USC § 103", item 7 on pages 5-6 of the Office Action, claim 8 has been rejected as being obvious over Tidbury in view of Soss and Tölle and in further view of U.S. Patent No. 4,544,192 to Angle under 35 U.S.C. § 103(a).

In "Claim Rejections - 35 USC § 103", item 8 on page 6 of the Office Action, claim 6 has been rejected as being obvious over Tidbury in view of Soss and Tölle and in further view of U.S. Patent No. 3,888,445 to Pence under 35 U.S.C. § 103(a).

The rejections have been noted and the claims have been amended in an effort to even more clearly define the invention of the instant application. Support for the changes to claims 1 and 11 is found in original claims 7 and 8 and in paragraph [23] bridging pages 6 and 7, as amended, of the Specification of the instant application.

Before discussing the prior art in detail, it is believed that a brief review of the invention as claimed, would be helpful. Claim 1 calls for, *inter alia*, an anti-rattle door assembly for a vehicle, comprising:

> a first member including a first base plate and a roller non-rotatably disposed on said first base plate, said roller having a section of high lubricity at an outer circumference thereof;
>
> a second member having a second base plate and a roller receiving part for receiving said roller of said first member, said roller receiving part having a guide recess formed therein;
>
> an adjusting system including ratchets each disposed at a respective one of said roller and said second base plate, for self-adjusting said roller into a correct position relative to said guide recess, upon closing the door and engaging said roller in said guide recess;
>
> a fastener for fixing said roller in said correct position; and
>
> a bumper element associated with said second member, said bumper element being mounted in said guide recess and being configured to at least partly enclose said roller when said first member and said second member are engaged.

Independent claim 11 contains similar language.

In the rejection of the claims, the Examiner has acknowledged that Tidbury fails to disclose the following limitations recited in claims 1 and 11 of the instant application:

(1) a bumper element mounted within a recess,

(2) a roller having a section of high lubricity, and
(3) a roller being non-rotatable.

The Examiner relies upon Soss to show limitation (1). However, Applicants are of the opinion that the buffering element of Soss is not applicable to the Tidbury device.

In this regard, the Examiner has ignored the function of the Tidbury device. It is a basic feature of the anti-rattle door assembly of Tidbury that independently slidable wedge shaped members engage a tapering recess and thereby reduce door rattle. In order to ensure this technical feature, clamping forces have to be realized with regard to the wedge-shaped members. Accordingly, the vertical movement must not be hindered by contact of the rotatably mounted roller and the end of the recess. This can also be gathered from the description given in Tidbury in column 3, lines 36 to 43. Since such contact has to be prevented, there is no motivation for a skilled artisan to reconstruct the end portion of the recess in Tidbury according to Soss without changing the invention of Tidbury to a "rattling door assembly".

The Examiner relies upon Tölle to show limitation (2). However, Tölle describes a door fastener for motor vehicle

doors wherein a permanent lubrication and a permanently easy rotation of rollers is ensured by an outwardly sealed lubricant reservoir being accommodated in caps which are placed on front sides of said rollers. In view of that construction, Tölle only proposes to provide a permanent lubrication for rotatable rollers and in particular a lubrication of the roller and its shaft.

The above-described structure in Tölle does not provide a section of high lubricity at an outer circumference of a non-rotatable roller, as recited in claims 1 and 11 of the instant application.

Furthermore, it must be stressed that the invention of the instant application as claimed relates to a door assembly with a guiding recess, so that it is not a simple matter to provide a sealed lubricant reservoir in such a structure. On the contrary, the Examiner's combination of Tdbury, Soss and Tölle goes beyond a combination of features which could be performed by one of ordinary skill in the art and it can therefore be stated that Tölle teaches away from a combination with the rotatable roller embodiment of Tidbury as suggested by the Examiner to show present invention.

The Examiner has not referred to any prior art documents to

show limitation (3), but merely mentions that it is well known throughout the art to use sliding or guide members interchangeably with rollers. This statement is completely contrary to the teaching of all of the above-mentioned documents relating to door assemblies.

Moreover, limitations (1), (2) and (3) jointly support the self-adjusting system as follows: The bumper element as well as the section of high lubricity at the outer circumference of the roller ensures that the forces used to move the roller with the ratchets are introduced softly without damaging the fastener. Additionally, since the roller is non-rotatable, the connection to the base plate with the ratchet can be easily provided and manufactured in a very robust way.

In this context it must be appreciated that vehicles which are equipped with such a self aligning wedge (e.g. sport utility vehicles, minivans and station wagons) have very heavy rear tail gates so that the forces subjected to the door assembly may be significantly due to manufacturing tolerances. Additionally, adjustment is very difficult because the assembly operator may not be able to see the wedge receiver during the adjustment. Accordingly, all of the features of the invention as claimed **together** define an invention which is patentable over the prior art applied

against the clams.

Clearly, neither Tdbury nor Soss nor Tölle nor any of the other prior art show or suggest a combination of:

> a roller non-rotatably disposed on said first base plate,
>
> said roller having a section of high lubricity at an outer circumference thereof;
>
> an adjusting system including ratchets each disposed at a respective one of said roller and said second base plate, for self-adjusting said roller into a correct position relative to said guide recess, upon closing the door and engaging said roller in said guide recess;
>
> a fastener for fixing said roller in said correct position; and
>
> a bumper element associated with said second member,

as recited in claims 1 and 11 of the instant application.

It is accordingly believed to be clear that none of the references, whether taken alone or in any combination, either show or suggest the features of claims 1 and 11. Claims 1 and 11 are, therefore, believed to be patentable over the art. The dependent claims are believed to be patentable as well because they all are ultimately dependent on claims 1 or 11.

In view of the foregoing, reconsideration and allowance of claims 1, 3-6 and 9-18 are solicited. In the event the

Examiner should still find any of the claims to be unpatentable, counsel would appreciate receiving a telephone call so that, if possible, patentable language can be worked out.

Also enclosed is a Statement under 37 CPR 3.73(b), as required by the Decision on Petition dated July 26, 2006. The Examiner is requested to make this Statement of record in the instant application.

If an extension of time is required, petition for extension is herewith made. Any extension fee associated therewith should be charged to Deposit Account Number 12-1099 of Lerner Greenberg Stemer LLP. Please charge any other fees that might be due with respect to Sections 1.16 and 1.17 to Deposit Account Number 12-1099 as well.

Respectfully submitted,

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LAG/lq

October 26, 2006

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STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: KEYKERT USA, INC.

Application No./Patent No.: 10/689,671 Filed/Issue Date: OCTOBER 22, 2003

Entitled: ANTI-RATTLE DOOR ASSEMBLY

KEYKERT USA, INC., a CORPORATION
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. [X] the assignee of the entire right, title, and interest; or

2. [ ] an assignee of less than the entire right, title and interest.
The extent (by percentage) of its ownership interest is _____%

In the patent application/patent identified above by virtue of either:

A. [X] An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel 015236, Frame 0636, or for which a copy thereof is attached.

OR

B. [ ] A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

[ ] Additional documents in the chain of title are listed on a supplemental sheet.

[ ] Copies of assignments or other documents in the chain of title are attached.
[NOTE: A separate copy (*i.e.*, a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

_____ 6. Oct. 2006
Signature Date

KARL LAMBERTZ (001)248 960 5330
Printed or Typed Name Telephone Number

VICE PRESIDENT
Title